

Howard Leventhal
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Sept 27, 2018

Patrick Hein
Richard Donohue
US Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201

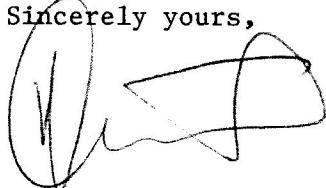
RE: LEVENTHAL v U.S.
Case No. 18-cv-3470(BMC)
13-cr-695(BMC)

Rule 11 Safe Harbor Advisory

See attached unsigned copy of Motion For Rule to Show Cause (Indirect Civil Contempt) Under Fed R Civ P Rule 11, for your submissions, Doc Nos. 207 and 207-1 in the above captioned matter. This letter constitutes your advisory as required under the "Safe Harbor" provision of Rule 11, allowing you 21 days to withdraw said submissions.

Should you fail to do so, the enclosed motion, which has been sent to Judge Cogan unsigned, as a courtesy copy, will be filed with the Clerk.

Sincerely yours,



Howard Leventhal

cc: Judge Brian M. Cogan (as courtesy copy, not for filing)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Leventhal)
v) Case No.
United States) 18-cv-3470(BMC)
) (13-cr-695(BMC))

MOTION FOR RULE TO SHOW CAUSE (INDIRECT CIVIL CONTEMPT)
Under Fed R Civ P Rule 11

NOW COMES PETITIONER/DEFENDANT Howard Leventhal, a non-attorney pro se, hereby respectfully submitting this motion under Fed R Civ P Rule 11, for sanctions against Patrick Hein and Richard Donohue, publicly paid employees in the office of United States Attorney for the Eastern District of New York. In support of this motion, Leventhal states as follows:

- 1) On Sept 17, 2018 two individuals claiming to be attorneys licensed by the State of New York, submitted filings in this matter, Docs 207 and 207-1. Said attorneys, Patrick T. Hein and Richard P. Donoghue, submitted said filings under their signatures or electronic facsimile signatures, as required under Fed R Civ P Rule 11.
- 2) Rule 11 also mandates that filings made by attorneys or parties shall not be frivolous, nor submitted for improper purposes such as to oppress the opposing party, harass or dilate the proceedings. Moreover Rule 11 requires that such submissions shall be relevant to the proceedings, grounded in law and particularly applicable here - made only after conducting a good faith investigation into the subject matter factual allegations. Hein and Donoghue's said filings do not comply with these requirements.
- 3) The above-named filers applied to this court to expand the time allowed for their response to the 2255 petition pending in this matter, stating that due to the 80+ pages of factual allegations in said 2255 petition, an extraordinarily lengthy amount of time would be required to properly formulate a

meaningful and relevant response, preceded by, presumably, a good faith investigation (paraphrasing). Given all of the extra time granted, the court should reasonably expect and demand that the filers would perhaps file a single affidavit or declaration from at least one employee of the Department of Justice contradicting the 2255 petition's factual allegations. Particularly with reference to Petitioner's claims of fraud on the court relating to the numerous promises and assurances made to this court regarding medical care, a topic of no less than 2/3 of the three calendar years it took before this court to establish applicable predicates to sentencing - and given that the DOJ employs approximately 300 (ostensibly) licensed and qualified medical doctors in its Bureau of Prisons - and that each and every one of said doctors, from sea to shining sea, has instantaneous access to Howard Leventhal's official BOP Medical Records - if Leventhal's claims in the 2255 petition were false, no more than 2 hours spent by any of the above described otherwise unemployable doctors would have settled the issue entirely and destroyed the validity of Leventhal's current claims. Obviously then, the absence of any kind of sworn evidence filed in the Government's answer to the 2255 petition, proves the petition's allegations.

4) Obviously further, the entire or nearly the entire 133 pages of the Government's answer in this matter, Docs 207 and 207-1, are nothing more or less than a smokescreen to obscure this court's view that all of the spoken and written promises made to the Court (in the record and in oral statements made repeatedly by the assigned line prosecutor), were deliberate frauds on the court, invalidating the court's sentence by any measure or standard. An egregious manifest injustice emerges from the above, unbefitting any sworn officer of the United States Department of "Justice."

5) As Rule 11 requires, the undersigned provided a "Safe Harbor" letter to the above identified filers on Sept 28, 2018 via U.S. postal mail, prepaid and deposited with prison authorities for further deposit in postal mail.

A copy of said Safe Harbor letter is attached hereto. So far as Leventhal is able to determine, the filers have not as yet withdrawn their frivolous, unpermitted and abusive filings as of the date hereof.

NOW THEREFORE, Petitioner hereby prays this Court for an order to show cause why Patrick T. Hein and Richard P. Donoghue should not be found and held in indirect contempt of this Court, or any other relief as this Honorable Court deems fit.

Respectfully submitted,
PETITIONER/DEFENDANT PRO SE

*COURTESY COPY
TO JUDGE COGAN*

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Date